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Arthur Ernest Conrad

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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/903,976  
Filing Date: July 12, 2001  
Appellant(s): CONRAD ET AL.

\_\_\_\_\_  
Gene S. Winter, Reg. No. 28,352  
Todd M. Oberdick, Reg. No. 44,268  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 10/08/2009 appealing from the Office action mailed 03/19/2009.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

An appeal had been previously filed in connection with this application, which appeal was assigned Appeal No. 2008-0602. A Decision was rendered by the Board of Patent Appeals and Interferences on February 29, 2008. A copy of this Decision is attached hereto.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

### **(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

### **(8) Evidence Relied Upon**

6,084,583     Gerszberg et al.     07-2000

6,834,048     Cho et al.     12-2004

6,295,061     Park et al.     09-2001

"An Internet newcomer is making money by selling moving ads as part of screen savers" Barboza     10-1996

"Tiny pager gives big picture; Innovation" Glaskin     09-1995

### **(9) Grounds of Rejection**

#### **Claim Rejections - 35 USC § 112**

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed,

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had possession of the claimed invention. Specifically, the limitation "only if," constitutes new matter, as this claim limitation is not supported by the specification. The Examiner reviewed the Applicant specification in detail and found that on page 4 paragraph 12, the Applicant states, "if the user event does not occur within a specified time period, the attract loop code automatically transmits a request for attract loop content to the central computer." However, this does not state "only if" a user event does not occur is a request automatically transmitted. In fact, a keyword search of the specification demonstrated that there is no mention of the word only in the Applicant's specification. Appropriate correction is required.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 6, 8-12, 14, 16, 18-24, 26, 28, 30-34, 36, 38, and 40-44 are rejected under U.S.C. 103(a) as being unpatentable over Gerszberg et al. Patent Number 6,084,583 (hereinafter Gerszberg) in view of Cho et al. Patent Number 6,834,048 (hereinafter Cho).

In reference to claims 1, 11, 21, 22, 23, 33, 43, and 44, all of the independent claims have substantially the same limitations, and Gerszberg discloses a method and system for displaying a web content on a display of a user computer, said system

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comprising: a central computer (col. 6 lines 36-48 and Fig. 4A); software executing on said central computer for receiving a request to transmit a web page (Gerszberg describes receiving a request to transmit content to a phone (col. 9 lines 8-11); Cho describes using a web page for phone service and VOIP (col. 2 lines 33-61)), software executing on said central computer for transmitting a web page to the user computer in response to the request to transmit a web page, (col. 8 lines 26-29) the web page comprising attract loop code, wherein the attract loop code monitors the user computer for a user event, and only if the user event does not occur within a specified time period, the attract loop code automatically transmits a request for attract loop content to said central computer (col. 8 lines 43-65 and Fig. 6) software executing on said central computer for automatically transmitting attract loop content to the user computer in response to the request for attract loop content; and (col. 8 lines 43-65 and Fig. 6) wherein the attract loop code causes the attract loop content to be displayed on the display of the user computer (col. 8 lines 43-65 and Fig. 6).

Basically, Gerszberg describes all of the limitations of claim 1, and in particular, a screen saver, including the details of the programming logic that both monitors for activity and displays content only if such activity is not provided within a specific period of time (col. 8 lines 43-65 and Fig. 6) and having the client call for screen saver content from the server (col. 9 lines 8-11), except for the transmission of a web page.

Gerszberg's transmission may be internet content, which would suggest web content. Cho demonstrates that Gerszberg's videophone may be a computer using VOIP with web pages. Thus, Gerszberg's screensaver on Cho's VOIP videophone would use web

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pages for its downloaded content to be compatible with Cho's web pages. It would have been obvious to a person of ordinary skill in the art to have applied Gerszberg's videophone within Cho's VOIP context because of Cho's taught application to phone service.

In reference to claims 2, 12, 24, and 34, Gerszberg discloses the method and system wherein the attract loop code, while the attract loop content is being displayed on the display of the user computer, monitors the user computer for a user event, and, upon the occurrence of the user event, automatically causes the display of the attract loop content to be terminated (col. 8 lines 39-42, col. 9 lines 21-24 and 40-42).

In reference to claims 4, 14, 26, and 36, Gerszberg discloses the method wherein the attract loop content is displayed in a browser window (i.e. a program that accesses and displays files and other data available on the Internet and other networks) (col. 5 lines 51-60, col. 6 lines 20-35, col. 8 lines 43 to col. 9 lines 57).

In reference to claims 6, 16, 28, and 38, Gerszberg discloses the method wherein the wherein the attract loop content is displayed in a browser window which was automatically opened by the attract loop code (col. 8 lines 43-65 and Fig. 6).

In reference to claims 8, 18, 30, and 40, Gerszberg discloses the method wherein the user event is selected from the group consisting of manipulation of an input device, movement of a mouse, typing on a keyboard, access of a storage device, and combinations of these col. 8 lines 33-39).

In reference to claims 9, 19, 31, and 41, Gerszberg discloses the method wherein the attract loop content comprises media selected from the group consisting of

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text, graphics, animation, sound, video, multimedia, and combinations of these (col. 6 lines 20-35, col. 8 lines 51-57, and Figures 3A and 8).

In reference to claims 10, 20, 32, and 42, Gerszberg discloses the method wherein the attract loop content relates to subject matter selected from the group consisting of advertisement, entertainment, education, and combinations of these (col. 8 lines 51-65 and Figure 8).

Claims 3, 5, 13, 15, 25, 27, 35, and 37 are rejected under U.S.C. 103(a) as being unpatentable over Gerszberg in view of Cho and further in view of Park et al (6,295,061 hereinafter Park).

In reference to claims 3, 13, 25, and 35, Gerszberg does not disclose the method wherein the central computer comprises a web server. Park discloses the method wherein the central computer comprises a web server (i.e. a server that serves web sites to the client computer) (col. 5 lines 26-58, col. 6 lines 25-27, col. 8 lines 20-24, and Figures 5 and 6). It would have been obvious to modify Gerszberg to include the method wherein the central computer comprises a web server to enable the transmission of an entire webpage instead of a specific advertisement to be used as a screen saver, since video phones and PDA devices are capable of displaying web pages similar to computers.

In reference to claims 5, 15, 27, and 37, Gerszberg does not specifically disclose the method wherein the attract loop content is displayed in a browser window in full screen mode. Park inherently discloses the method wherein the attract loop content is displayed in a browser window in full screen mode (since, the option to display a

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browser window in full screen mode is automatically presented as a feature of the browser itself, for example in Internet Explorer, under the View menu on the toolbar, there is an option to display a full screen mode, and Park teaches the invention using the Internet Explorer web browser, and therefore the full screen mode option is positively present in Park's disclosed invention) (col. 5 lines 49-58, col. 7 lines 12-13 and 49-57, col. 8 lines 20-24, col. 9 lines 18-19 and 35-37, col. 10 lines 24-26, col. 11 lines 29-31, and Figures 6-15). It would have been obvious to modify Gerszberg to include the method wherein the attract loop content is displayed in a browser window in full screen mode to enable the user to view content in a larger text/image size on the full length of the screen.

Claims 7, 17, 29, and 39 are rejected under U.S.C. 103(a) as being unpatentable over Gerszberg in view of Cho and further in view of the article titled "An Internet newcomer is making money by selling moving ads as part of screen savers" written by David Barboza for the New York Times on October 1, 1996 on page D.7 (hereinafter Barboza).

In reference to claims 7, 17, 29, and 39 Gerszberg teaches the method wherein the attract loop code is received and displayed (col. 8 lines 43-65 and Fig. 6). Gerszberg is silent about teaching the method that automatically causes the attract loop content to be continually updated. Barboza teaches the method that automatically causes the attract loop content to be continually updated (page 1 lines 1-4 and 7-9, page 2 lines 15-17, 26-28, and 31-33). It would have been obvious to modify Gerszberg to include the method that automatically causes the attract loop content to be

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continually updated to gain access to up to date advertising content to be presented to the users. Further, it would make sense to have continually updated content, since users would not want to see the same advertisements over and over again, and repeated advertisements will also not benefit the advertiser as the viewers will no longer be interested in viewing the repeated advertisements.

Claims 1, 2, 4, 6, 8-12, 14, 16, 18-24, 26, 28, 30-34, 36, 38, and 40-44 are rejected under U.S.C. 103(a) as being unpatentable over Gerszberg et al. Patent Number 6,084,583 (hereinafter Gerszberg) in view of the article titled, "Tiny pager gives big picture; Innovation," written by Max Glaskin in The Times on September 24, 1995 on page 1 (hereinafter Glaskin).

In reference to claims 1, 11, 21, 22, 23, 33, 43, and 44, all of the independent claims have substantially the same limitations, and Gerszberg discloses a method and system for displaying a web content on a display of a user computer, said system comprising: a central computer (col. 6 lines 36-48 and Fig. 4A); software executing on said central computer for receiving a request to transmit content to a phone (col. 9 lines 8-11), software executing on said central computer for transmitting a web page to the user computer in response to the request to transmit a web page, (col. 8 lines 26-29) the web page comprising attract loop code, wherein the attract loop code monitors the user computer for a user event, and only if the user event does not occur within a specified time period, the attract loop code automatically transmits a request for attract loop content to said central computer (col. 8 lines 43-65 and Fig. 6) software executing on said central computer for automatically transmitting attract loop content to the user

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computer in response to the request for attract loop content; and (col. 8 lines 43-65 and Fig. 6) wherein the attract loop code causes the attract loop content to be displayed on the display of the user computer (col. 8 lines 43-65 and Fig. 6).

Basically, Gerszberg describes all of the limitations of claim 1, and in particular, a screen saver, including the details of the programming logic that both monitors for activity and displays content only if such activity is not provided within a specific period of time (col. 8 lines 43-65 and Fig. 6) and having the client call for screen saver content from the server (col. 9 lines 8-11), except for the transmission of a web page.

Furthermore, Gerszberg's transmission may be internet content, which would suggest web content. Glaskin teaches transmission of a web page to a communications message device including a videophone, since it teaches browsing World Wide Web page from the Internet (page 1 paragraphs 1-3 and 5). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Gerzberg to include transmission of a web page, to enable the user to view detailed and updated information that can be provided on a web page about an advertiser's product or company to enhance the user experience with the advertisements and to make it more attractive for advertisers to advertise with the advertisement provider.

In reference to claims 2, 12, 24, and 34, Gerszberg discloses the method and system wherein the attract loop code, while the attract loop content is being displayed on the display of the user computer, monitors the user computer for a user event, and, upon the occurrence of the user event, automatically causes the display of the attract loop content to be terminated (col. 8 lines 39-42, col. 9 lines 21-24 and 40-42).

In reference to claims 4, 14, 26, and 36, Gerszberg discloses the method wherein the attract loop content is displayed in a browser window (i.e. a program that accesses and displays files and other data available on the Internet and other networks) (col. 5 lines 51-60, col. 6 lines 20-35, col. 8 lines 43 to col. 9 lines 57).

In reference to claims 6, 16, 28, and 38, Gerszberg discloses the method wherein the wherein the attract loop content is displayed in a browser window which was automatically opened by the attract loop code (col. 8 lines 43-65 and Fig. 6).

In reference to claims 8, 18, 30, and 40, Gerszberg discloses the method wherein the user event is selected from the group consisting of manipulation of an input device, movement of a mouse, typing on a keyboard, access of a storage device, and combinations of these col. 8 lines 33-39).

In reference to claims 9, 19, 31, and 41, Gerszberg discloses the method wherein the attract loop content comprises media selected from the group consisting of text, graphics, animation, sound, video, multimedia, and combinations of these (col. 6 lines 20-35, col. 8 lines 51-57, and Figures 3A and 8).

In reference to claims 10, 20, 32, and 42, Gerszberg discloses the method wherein the attract loop content relates to subject matter selected from the group consisting of advertisement, entertainment, education, and combinations of these (col. 8 lines 51-65 and Figure 8).

Claims 3, 5, 13, 15, 25, 27, 35, and 37 are rejected under U.S.C. 103(a) as being unpatentable over Gerszberg in view of Glaskin and further in view of Park et al (6,295,061 hereinafter Park).

In reference to claims 3, 13, 25, and 35, Gerszberg does not disclose the method wherein the central computer comprises a web server. Park discloses the method wherein the central computer comprises a web server (i.e. a server that serves web sites to the client computer) (col. 5 lines 26-58, col. 6 lines 25-27, col. 8 lines 20-24, and Figures 5 and 6). It would have been obvious to modify Gerszberg to include the method wherein the central computer comprises a web server to enable the transmission of an entire webpage instead of a specific advertisement to be used as a screen saver, since video phones and PDA devices are capable of displaying web pages similar to computers.

In reference to claims 5, 15, 27, and 37, Gerszberg does not specifically disclose the method wherein the attract loop content is displayed in a browser window in full screen mode. Park inherently discloses the method wherein the attract loop content is displayed in a browser window in full screen mode (since, the option to display a browser window in full screen mode is automatically presented as a feature of the browser itself, for example in Internet Explorer, under the View menu on the toolbar, there is an option to display a full screen mode, and Park teaches the invention using the Internet Explorer web browser, and therefore the full screen mode option is positively present in Park's disclosed invention) (col. 5 lines 49-58, col. 7 lines 12-13 and 49-57, col. 8 lines 20-24, col. 9 lines 18-19 and 35-37, col. 10 lines 24-26, col. 11 lines 29-31, and Figures 6-15). It would have been obvious to modify Gerszberg to include the method wherein the attract loop content is displayed in a browser window in

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full screen mode to enable the user to view content in a larger text/image size on the full length of the screen.

Claims 7, 17, 29, and 39 are rejected under U.S.C. 103(a) as being unpatentable over Gerszberg in view of Glaskin and further in view of the article titled "An Internet newcomer is making money by selling moving ads as part of screen savers" written by David Barboza for the New York Times on October 1, 1996 on page D.7 (hereinafter Barboza).

In reference to claims 7, 17, 29, and 39 Gerszberg teaches the method wherein the attract loop code is received and displayed (col. 8 lines 43-65 and Fig. 6). Gerszberg is silent about teaching the method that automatically causes the attract loop content to be continually updated. Barboza teaches the method that automatically causes the attract loop content to be continually updated (page 1 lines 1-4 and 7-9, page 2 lines 15-17, 26-28, and 31-33). It would have been obvious to modify Gerszberg to include the method that automatically causes the attract loop content to be continually updated to gain access to up to date advertising content to be presented to the users. Further, it would make sense to have continually updated content, since users would not want to see the same advertisements over and over again, and repeated advertisements will also not benefit the advertiser as the viewers will no longer be interested in viewing the repeated advertisements.

#### **(10) Response to Argument**

Further in depth review of the Applicant's specification and the provisional

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application necessitated the introduction of a new 35 U.S.C. 112 1<sup>st</sup> paragraph rejection for new matter for the limitation involving the use of the “only if” terminology that is unsupported by both the present application and the provisional application.

In reference to the Applicant’s argument that the provisional application number 60/217,800 filed on July 12, 2000 overcomes the effective date of the Cho et al. reference of September 22, 2000, the Examiner respectfully disagrees with the Applicant.

First, the cited portions of the provisional by the Applicant, and in fact the entire 1 page provisional, do not recite the “only if” terminology in the Applicant’s independent claims of the present Application. There is no specific recitation of “only if” limitation in the provisional application. And, the Applicant has failed to identify a specific recitation of this terminology in the provisional application.

Secondly, even if the Applicant provides support for monitoring a period of “no activity” in claim 1 of the provisional, this still does not provide the support for the limitation that the attract loop code automatically transmits a request for attract loop content to said central computer only if the user event does not occur within a specified time period. Just because a screen saver comes on when there is no activity does not mean that the screen saver only comes when there is no activity. It could also come on for another reason in addition to a reason of no activity. For example, it could also come on when a user makes an X or O trace with a pointing device or shakes the pointing device as discussed by references in the art before the Applicant’s invention. Furthermore, the Applicant’s claim requires that the display

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occur only if and not simply if there is no movement, so while no activity may support simply if there is no movement, it is not the same as only if there is no movement.

Thirdly, Applicant argues that the term, "idle period," has to mean a period of inactivity to someone who is skilled in the art. The Examiner respectfully disagrees with this assertion, because while one definition of the word idle is inactive, another definition of the word per [www.dictionary.com](http://www.dictionary.com) is slow. So, idle does not just mean only if there is no activity, and the **Applicant did not make use of the "only if" terminology in the provisional application.** The Examiner is giving the broadest reasonable interpretation to the term "idle period," since idle can mean slow in a computing environment. For example, prior art in the computing environment can be found where if it takes a long time to download something from the Internet, advertisements from a user's hard drive can be shown to the user during such periods of slowness/idle time to make effective use of the user's time. So, such a definition of idle period is not simply limited to applications involving motors and motor vehicles as asserted by the Applicant.

Fourthly, the Applicant's argument that "if the provisional patent application supports a system that monitors for a period of no activity and/or a period of slow activity, and Claim 1 of the present application requires monitoring for a period of no activity, such must be supported," is clearly without any merit. This is because in that case, the Examiner needs to only find a system that monitors for a period of no activity OR a system that monitors for a period of slow activity, and not both and not specifically the first type of system as asserted by the Applicant. Regardless, there is

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still no support for the "only if" limitation in the provisional application. Therefore, the original rejection in view of Cho et al. is maintained. However, for the sake of argument, the Examiner has made an additional alternative rejection in view of the Glaskin reference.

With respect to the Glaskin reference, Applicant argues that this reference is not even close to being enabled for the premises it is cited as teaching. Specifically, the Examiner cited Glaskin as disclosing "transmission of a web page to a communications message device including a videophone, since it teaches browsing World Wide Web page from the Internet." The Applicant argues that this is a brief article that only mentions the cited teaching in passing, since the device being reported on in the article is being developed secretly by Motorola. While the Examiner agrees this is a brief article, the Examiner respectfully disagrees with the Applicant that Glaskin is not enabled to teach what it is cited as teaching. Specifically, the article discloses that Motorola is using LEDs and a lens design that allows displays to dispense with a backlit screen and how this is consuming one third the power used by a backlit LCD screen for the image pager device that can handle pictures, faxes, e-mail, and even browse World Wide Web pages from the Internet. It goes on to state that at the moment, the device can display up to 14 lines of text, each able to hold 40 characters, or the equivalent in pictures or graphics. The prototype is monochrome and the quality of the resolution is only one-eighth of that on a standard computer monitor. The director from Motorola states in the article that he does not want to reveal the names of Motorola's partners in the project because of confidentiality agreements, but this does not mean that there is

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no product in existence. The device already exists and meets the limitation for which this article is being cited, and this existing device is being improved on to produce a device that is twice as better in terms of picture quality next year and a colored version that is predicted to be offered in 1998.

**(11) Related Proceeding(s) Appendix**

A copy of the Decision rendered by the Board of Patent Appeals and Interferences on February 29, 2008 in connection with Appeal No. 2008-0602 is attached.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/NAMRATA BOVEJA/  
Primary Examiner, Art Unit 3622

Conferees:

Eric Stamber/E. W. S./  
Supervisory Patent Examiner, Art Unit 3622

Yehdega Retta

/Yehdega Retta/  
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